

109TH CONGRESS
1ST SESSION

S. 2118

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006, and to combat methamphetamine abuse.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2005

Mr. SUNUNU (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. OBAMA, Ms. MURKOWSKI, Mr. HAGEL, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006, and to combat methamphetamine abuse.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—EXTENSION OF SUNSET**
 2 **OF CERTAIN PROVISIONS OF**
 3 **THE USA PATRIOT ACT AND**
 4 **THE LONE WOLF PROVISION**
 5 **OF THE INTELLIGENCE RE-**
 6 **FORM AND TERRORISM PRE-**
 7 **VENTION ACT OF 2004**

8 **SECTION 101. EXTENSION OF SUNSET OF CERTAIN PROVI-**
 9 **SIONS OF THE USA PATRIOT ACT AND THE**
 10 **LONE WOLF PROVISION OF THE INTEL-**
 11 **LIGENCE REFORM AND TERRORISM PREVEN-**
 12 **TION ACT OF 2004.**

13 Section 224(a) of the Uniting and Strengthening
 14 America by Providing Appropriate Tools Required to
 15 Intercept and Obstruct Terrorism (USA PATRIOT ACT)
 16 Act of 2001 (Public Law 107–56; 115 Stat. 295) is
 17 amended by striking “December 31, 2005” and inserting
 18 “March 31, 2006”.

19 **TITLE II—COMBAT METH-**
 20 **AMPHETAMINE EPIDEMIC**
 21 **ACT OF 2005**

22 **SEC. 201. SHORT TITLE.**

23 This title may be cited as the “Combat Methamphet-
 24 amine Epidemic Act of 2005”.

1 **Subtitle A—Domestic Regulation of**
2 **Precursor Chemicals**

3 **SEC. 211. SCHEDULED LISTED CHEMICAL PRODUCTS; RE-**
4 **STRICTIONS ON SALES QUANTITY, BEHIND-**
5 **THE-COUNTER ACCESS, AND OTHER SAFE-**
6 **GUARDS.**

7 (a) SCHEDULED LISTED CHEMICAL PRODUCTS.—

8 (1) IN GENERAL.—Section 102 of the Con-
9 trolled Substances Act (21 U.S.C. 802) is amend-
10 ed—

11 (A) by redesignating paragraph (46) as
12 paragraph (49); and

13 (B) by inserting after paragraph (44) the
14 following paragraphs:

15 “(45)(A) The term ‘scheduled listed chemical prod-
16 uct’ means, subject to subparagraph (B), a product that—

17 “(i) contains ephedrine, pseudoephedrine, or
18 phenylpropanolamine; and

19 “(ii) may be marketed or distributed lawfully in
20 the United States under the Federal, Food, Drug,
21 and Cosmetic Act as a nonprescription drug.

22 Each reference in clause (i) to ephedrine,
23 pseudoephedrine, or phenylpropanolamine includes
24 each of the salts, optical isomers, and salts of optical
25 isomers of such chemical.

1 “(B) Such term does not include a product described
2 in subparagraph (A) if the product contains a chemical
3 specified in such subparagraph that the Attorney General
4 has under section 201(a) added to any of the schedules
5 under section 202(c). In the absence of such scheduling
6 by the Attorney General, a chemical specified in such sub-
7 paragraph may not be considered to be a controlled sub-
8 stance.

9 “(46) The term ‘regulated seller’ means a retail dis-
10 tributor (including a pharmacy or a mobile retail vendor),
11 except that such term does not include an employee or
12 agent of such distributor.

13 “(47) The term ‘mobile retail vendor’ means a person
14 or entity that makes sales at retail from a stand that is
15 intended to be temporary, or is capable of being moved
16 from one location to another, whether the stand is located
17 within or on the premises of a fixed facility (such as a
18 kiosk at a shopping center or an airport) or whether the
19 stand is located on unimproved real estate (such as a lot
20 or field leased for retail purposes).

21 “(48) The term ‘at retail’, with respect to the sale
22 or purchase of a scheduled listed chemical product, means
23 a sale or purchase for personal use, respectively.”.

1 (2) CONFORMING AMENDMENTS.—The Con-
2 trolled Substances Act (21 U.S.C. 801 et seq.) is
3 amended—

4 (A) in section 102, in paragraph (49) (as
5 redesignated by paragraph (1)(A) of this sub-
6 section)—

7 (i) in subparagraph (A), by striking
8 “pseudoephedrine or” and inserting
9 “ephedrine, pseudoephedrine, or”; and

10 (ii) by striking subparagraph (B) and
11 redesignating subparagraph (C) as sub-
12 paragraph (B); and

13 (B) in section 310(b)(3)(D)(ii), by striking
14 “102(46)” and inserting “102(49)”.

15 (b) RESTRICTIONS ON SALES QUANTITY; BEHIND-
16 THE-COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAIN-
17 ING OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

18 (1) IN GENERAL.—Section 310 of the Con-
19 trolled Substances Act (21 U.S.C. 830) is amended
20 by adding at the end the following subsections:

21 “(d) SCHEDULED LISTED CHEMICALS; RESTRIC-
22 TIONS ON SALES QUANTITY; REQUIREMENTS REGARDING
23 NONLIQUID FORMS.—With respect to ephedrine base,
24 pseudoephedrine base, or phenylpropanolamine base in a
25 scheduled listed chemical product—

1 “(1) the quantity of such base sold at retail in
 2 such a product by a regulated seller, or a distributor
 3 required to submit reports by subsection (b)(3) may
 4 not, for any purchaser, exceed a daily amount of 3.6
 5 grams, without regard to the number of trans-
 6 actions; and

7 “(2) such a seller or distributor may not sell
 8 such a product in nonliquid form (including gel
 9 caps) at retail unless the product is packaged in blis-
 10 ter packs, each blister containing not more than 2
 11 dosage units, or where the use of blister packs is
 12 technically infeasible, the product is packaged in
 13 unit dose packets or pouches.

14 “(e) SCHEDULED LISTED CHEMICALS; BEHIND-THE-
 15 COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAINING
 16 OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

17 “(1) REQUIREMENTS REGARDING RETAIL
 18 TRANSACTIONS.—

19 “(A) IN GENERAL.—Each regulated seller
 20 shall ensure that, subject to subparagraph (F),
 21 sales by such seller of a scheduled listed chem-
 22 ical product at retail are made in accordance
 23 with the following:

24 “(i) In offering the product for sale,
 25 the seller places the product such that cus-

1 tomers do not have direct access to the
2 product before the sale is made (in this
3 paragraph referred to as ‘behind-the-
4 counter’ placement). For purposes of this
5 paragraph, a behind-the-counter placement
6 of a product includes circumstances in
7 which the product is stored in a locked
8 cabinet that is located in an area of the fa-
9 cility involved to which customers do have
10 direct access.

11 “(ii) The seller delivers the product
12 directly into the custody of the purchaser.

13 “(iii) The seller maintains, in accord-
14 ance with criteria issued by the Attorney
15 General, a written or electronic list of such
16 sales that identifies the products by name,
17 the quantity sold, the names and addresses
18 of purchasers, and the dates and times of
19 the sales (which list is referred to in this
20 subsection as the ‘logbook’), except that
21 such requirement does not apply to any
22 purchase by an individual of a single sales
23 package if that package contains not more
24 than 60 milligrams of pseudoephedrine.

1 “(iv) In the case of a sale to which
 2 the requirement of clause (iii) applies, the
 3 seller does not sell such a product unless—

4 “(I) the prospective purchaser—

5 “(aa) presents an identifica-
 6 tion card that provides a photo-
 7 graph and is issued by a State or
 8 the Federal Government, or a
 9 document that, with respect to
 10 identification, is considered ac-
 11 ceptable for purposes of sections
 12 274a.2(b)(1)(v)(A) and
 13 274a.2(b)(1)(v)(B) of title 8,
 14 Code of Federal Regulations (as
 15 in effect on or after the date of
 16 the enactment of the Combat
 17 Methamphetamine Epidemic Act
 18 of 2005); and

19 “(bb) signs the logbook and
 20 enters in the logbook his or her
 21 name, address, and the date and
 22 time of the sale; and

23 “(II) the seller—

24 “(aa) determines that the
 25 name entered in the logbook cor-

1 responds to the name provided on
2 such identification and that the
3 date and time entered are cor-
4 rect; and

5 “(bb) enters in the logbook
6 the name of the product and the
7 quantity sold.

8 “(v) The logbook includes, in accord-
9 ance with criteria of the Attorney General,
10 a notice to purchasers that entering false
11 statements or misrepresentations in the
12 logbook may subject the purchasers to
13 criminal penalties under section 1001 of
14 title 18, United States Code, which notice
15 specifies the maximum fine and term of
16 imprisonment under such section.

17 “(vi) The seller maintains each entry
18 in the logbook for not fewer than two years
19 after the date on which the entry is made.

20 “(vii) In the case of individuals who
21 are responsible for delivering such products
22 into the custody of purchasers or who deal
23 directly with purchasers by obtaining pay-
24 ments for the products, the seller has sub-
25 mitted to the Attorney General a self-cer-

1 tification that all such individuals have, in
2 accordance with criteria under subpara-
3 graph (B)(ii), undergone training provided
4 by the seller to ensure that the individuals
5 understand the requirements that apply
6 under this subsection and subsection (d).

7 “(viii) The seller maintains a copy of
8 such certification and records dem-
9 onstrating that individuals referred to in
10 clause (vii) have undergone the training.

11 “(ix) If the seller is a mobile retail
12 vendor:

13 “(I) The seller complies with
14 clause (i) by placing the product in a
15 locked cabinet.

16 “(II) The seller does not sell
17 more than 7.5 grams of ephedrine
18 base, pseudoephedrine base, or phen-
19 ylpropanolamine base in such prod-
20 ucts per customer during a 30-day pe-
21 riod.

22 “(B) ADDITIONAL PROVISIONS REGARDING
23 CERTIFICATIONS AND TRAINING.—

24 “(i) IN GENERAL.—A regulated seller
25 may not sell any scheduled listed chemical

1 product at retail unless the seller has sub-
2 mitted to the Attorney General the self-
3 certification referred to in subparagraph
4 (A)(vii). The certification is not effective
5 for purposes of the preceding sentence un-
6 less, in addition to provisions regarding the
7 training of individuals referred to in such
8 subparagraph, the certification includes a
9 statement that the seller understands each
10 of the requirements that apply under this
11 paragraph and under subsection (d) and
12 agrees to comply with the requirements.

13 “(ii) ISSUANCE OF CRITERIA; SELF-
14 CERTIFICATION.—The Attorney General
15 shall by regulation establish criteria for
16 certifications under this paragraph. The
17 criteria shall—

18 “(I) provide that the certifi-
19 cations are self-certifications provided
20 through the program under clause
21 (iii);

22 “(II) provide that a separate cer-
23 tification is required for each place of
24 business at which a regulated seller

1 sells scheduled listed chemical prod-
2 ucts at retail; and

3 “(III) include criteria for train-
4 ing under subparagraph (A)(vii).

5 “(iii) PROGRAM FOR REGULATED
6 SELLERS.—The Attorney General shall es-
7 tablish a program regarding such certifi-
8 cations and training in accordance with the
9 following:

10 “(I) The program shall be car-
11 ried out through an Internet site of
12 the Department of Justice and such
13 other means as the Attorney General
14 determines to be appropriate.

15 “(II) The program shall inform
16 regulated sellers that section 1001 of
17 title 18, United States Code, applies
18 to such certifications.

19 “(III) The program shall make
20 available to such sellers an expla-
21 nation of the criteria under clause (ii).

22 “(IV) The program shall be de-
23 signed to permit the submission of the
24 certifications through such Internet
25 site.

1 “(V) The program shall be de-
2 signed to automatically provide the
3 explanation referred to in subclause
4 (III), and an acknowledgement that
5 the Department has received a certifi-
6 cation, without requiring direct inter-
7 actions of regulated sellers with staff
8 of the Department (other than the
9 provision of technical assistance, as
10 appropriate).

11 “(iv) AVAILABILITY OF CERTIFI-
12 CATION TO STATE AND LOCAL OFFI-
13 CIALS.—Promptly after receiving a certifi-
14 cation under subparagraph (A)(vii), the
15 Attorney General shall make available a
16 copy of the certification to the appropriate
17 State and local officials.

18 “(C) PRIVACY PROTECTIONS.—In order to
19 protect the privacy of individuals who purchase
20 scheduled listed chemical products, the Attorney
21 General shall by regulation establish restrictions
22 on disclosure of information in logbooks under
23 subparagraph (A)(iii). Such regulations shall—

24 “(i) provide for the disclosure of the
25 information as appropriate to the Attorney

1 General and to State and local law enforce-
2 ment agencies; and

3 “(ii) prohibit accessing, using, or
4 sharing information in the logbooks for
5 any purpose other than to ensure compli-
6 ance with this title or to facilitate a prod-
7 uct recall to protect public health and safe-
8 ty.

9 “(D) FALSE STATEMENTS OR MISREPRE-
10 SENTATIONS BY PURCHASERS.—For purposes
11 of section 1001 of title 18, United States Code,
12 entering information in the logbook under sub-
13 paragraph (A)(iii) shall be considered a matter
14 within the jurisdiction of the executive, legisla-
15 tive, or judicial branch of the Government of
16 the United States.

17 “(E) GOOD FAITH PROTECTION.—A regu-
18 lated seller who in good faith releases informa-
19 tion in a logbook under subparagraph (A)(iii) to
20 Federal, State, or local law enforcement au-
21 thorities is immune from civil liability for such
22 release unless the release constitutes gross neg-
23 ligence or intentional, wanton, or willful mis-
24 conduct.

“(F) INAPPLICABILITY OF REQUIREMENTS
TO CERTAIN SALES.—Subparagraph (A) does
not apply to the sale at retail of a scheduled
listed chemical product if a report on the sales
transaction is required to be submitted to the
Attorney General under subsection (b)(3).

“(G) CERTAIN MEASURES REGARDING
THEFT AND DIVERSION.—A regulated seller
may take reasonable measures to guard against
employing individuals who may present a risk
with respect to the theft and diversion of sched-
uled listed chemical products, which may in-
clude, notwithstanding State law, asking appli-
cants for employment whether they have been
convicted of any crime involving or related to
such products or controlled substances.”.

(2) EFFECTIVE DATES.—With respect to sub-
sections (d) and (e)(1) of section 310 of the Con-
trolled Substances Act, as added by paragraph (1)
of this subsection:

(A) Such subsection (d) applies on and
after the expiration of the 30-day period begin-
ning on the date of the enactment of this Act.

(B) Such subsection (e)(1) applies on and
after September 30, 2006.

1 (c) MAIL-ORDER REPORTING.—

2 (1) IN GENERAL.—Section 310(e) of the Con-
3 trolled Substances Act, as added by subsection
4 (b)(1) of this section, is amended by adding at the
5 end the following:

6 “(2) MAIL-ORDER REPORTING; VERIFICATION
7 OF IDENTITY OF PURCHASER; 30-DAY RESTRICTION
8 ON QUANTITIES FOR INDIVIDUAL PURCHASERS.—

9 Each regulated person who makes a sale at retail of
10 a scheduled listed chemical product and is required
11 under subsection (b)(3) to submit a report of the
12 sales transaction to the Attorney General is subject
13 to the following:

14 “(A) The person shall, prior to shipping
15 the product, confirm the identity of the pur-
16 chaser in accordance with procedures estab-
17 lished by the Attorney General. The Attorney
18 General shall by regulation establish such pro-
19 cedures.

20 “(B) The person may not sell more than
21 7.5 grams of ephedrine base, pseudoephedrine
22 base, or phenylpropanolamine base in such
23 products per customer during a 30-day pe-
24 riod.”.

1 (2) INAPPLICABILITY OF REPORTING EXEMP-
2 TION FOR RETAIL DISTRIBUTORS.—Section
3 310(b)(3)(D)(ii) of the Controlled Substances Act
4 (21 U.S.C. 830(b)(3)(D)(ii)) is amended by insert-
5 ing before the period the following: “, except that
6 this clause does not apply to sales of scheduled listed
7 chemical products at retail”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by paragraphs (1) and (2) apply on and after the ex-
10 piration of the 30-day period beginning on the date
11 of the enactment of this Act.

12 (d) EXEMPTIONS FOR CERTAIN PRODUCTS.—Section
13 310(e) of the Controlled Substances Act, as added and
14 amended by subsections (b) and (c) of this section, respec-
15 tively, is amended by adding at the end the following para-
16 graph:

17 “(3) EXEMPTIONS FOR CERTAIN PRODUCTS.—
18 Upon the application of a manufacturer of a sched-
19 uled listed chemical product, the Attorney General
20 may by regulation provide that the product is ex-
21 empt from the provisions of subsection (d) and para-
22 graphs (1) and (2) of this subsection if the Attorney
23 General determines that the product cannot be used
24 in the illicit manufacture of methamphetamine.”.

1 (e) RESTRICTIONS ON QUANTITY PURCHASED DUR-
2 ING 30-DAY PERIOD.—

3 (1) IN GENERAL.—Section 404(a) of the Con-
4 trolled Substances Act (21 U.S.C. 844(a)) is amend-
5 ed by inserting after the second sentence the fol-
6 lowing: “It shall be unlawful for any person to know-
7 ingly or intentionally purchase at retail during a 30
8 day period more than 9 grams of ephedrine base,
9 pseudoephedrine base, or phenylpropanolamine base
10 in a scheduled listed chemical product, except that,
11 of such 9 grams, not more than 7.5 grams may be
12 imported by means of shipping through any private
13 or commercial carrier or the Postal Service.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) applies on and after the expiration
16 of the 30-day period beginning on the date of the
17 enactment .

18 (f) ENFORCEMENT OF REQUIREMENTS FOR RETAIL
19 SALES.—

20 (1) CIVIL AND CRIMINAL PENALTIES.—

21 (A) IN GENERAL.—Section 402(a) of the
22 Controlled Substances Act (21 U.S.C. 842(a))
23 is amended—

24 (i) in paragraph (10), by striking “or”
25 after the semicolon;

1 (ii) in paragraph (11), by striking the
2 period at the end and inserting a semi-
3 colon; and

4 (iii) by inserting after paragraph (11)
5 the following paragraphs:

6 “(12) who is a regulated seller, or a distributor
7 required to submit reports under subsection (b)(3)
8 of section 310—

9 “(A) to sell at retail a scheduled listed
10 chemical product in violation of paragraph (1)
11 of subsection (d) of such section, knowing at
12 the time of the transaction involved (inde-
13 pendent of consulting the logbook under sub-
14 section (e)(1)(A)(iii) of such section) that the
15 transaction is a violation; or

16 “(B) to knowingly or recklessly sell at re-
17 tail such a product in violation of paragraph (2)
18 of such subsection (d);

19 “(13) who is a regulated seller to knowingly or
20 recklessly sell at retail a scheduled listed chemical
21 product in violation of subsection (e) of such section;
22 or

23 “(14) who is a regulated seller or an employee
24 or agent of such seller to disclose, in violation of reg-
25 ulations under subparagraph (C) of section

1 310(e)(1), information in logbooks under subpara-
2 graph (A)(iii) of such section, or to refuse to provide
3 such a logbook to Federal, State, or local law en-
4 forcement authorities.”.

5 (B) CONFORMING AMENDMENT.—Section
6 401(f)(1) of the Controlled Substances Act (21
7 U.S.C. 841(f)(1)) is amended by inserting after
8 “shall” the following: “, except to the extent
9 that paragraph (12), (13), or (14) of section
10 402(a) applies,”.

11 (2) AUTHORITY TO PROHIBIT SALES BY VIOLA-
12 TORS.—Section 402(c) of the Controlled Substances
13 Act (21 U.S.C. 842(c)) is amended by adding at the
14 end the following paragraph:

15 “(4)(A) If a regulated seller, or a distributor required
16 to submit reports under section 310(b)(3), violates para-
17 graph (12) of subsection (a) of this section, or if a regu-
18 lated seller violates paragraph (13) of such subsection, the
19 Attorney General may by order prohibit such seller or dis-
20 tributor (as the case may be) from selling any scheduled
21 listed chemical product. Any sale of such a product in vio-
22 lation of such an order is subject to the same penalties
23 as apply under paragraph (2).

1 “(B) An order under subparagraph (A) may be im-
 2 posed only through the same procedures as apply under
 3 section 304(c) for an order to show cause.”.

4 (g) PRESERVATION OF STATE AUTHORITY TO REGU-
 5 LATE SCHEDULED LISTED CHEMICALS.—This section
 6 and the amendments made by this section may not be con-
 7 strued as having any legal effect on section 708 of the
 8 Controlled Substances Act as applied to the regulation of
 9 scheduled listed chemicals (as defined in section 102(45)
 10 of such Act).

11 **SEC. 212. REGULATED TRANSACTIONS.**

12 (a) CONFORMING AMENDMENTS REGARDING SCHED-
 13 ULED LISTED CHEMICALS.—The Controlled Substances
 14 Act (21 U.S.C. 801 et seq.) is amended—

15 (1) in section 102—

16 (A) in paragraph (39)(A)—

17 (i) by amending clause (iv) to read as
 18 follows:

19 “(iv) any transaction in a listed chemical
 20 that is contained in a drug that may be mar-
 21 keted or distributed lawfully in the United
 22 States under the Federal Food, Drug, and Cos-
 23 metic Act, subject to clause (v), unless—

24 “(I) the Attorney General has deter-
 25 mined under section 204 that the drug or

group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

“(II) the quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General;”;

(ii) by redesignating clause (v) as clause (vi); and

(iii) by inserting after clause (iv) the following clause:

“(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 310(b)(3); or”; and

(B) by striking the paragraph (45) that relates to the term “ordinary over-the-counter pseudoephedrine or phenylpropanolamine product”;

(2) in section 204, by striking subsection (e);

and

(3) in section 303(h), in the second sentence, by striking “section 102(39)(A)(iv)” and inserting “clause (iv) or (v) of section 102(39)(A)”.

1 (b) PUBLIC LAW 104–237.—Section 401 of the Com-
 2 prehensive Methamphetamine Control Act of 1996 (21
 3 U.S.C. 802 note) (Public Law 104–237) is amended by
 4 striking subsections (d), (e), and (f).

5 **SEC. 213. AUTHORITY TO ESTABLISH PRODUCTION**
 6 **QUOTAS.**

7 Section 306 of the Controlled Substances Act (21
 8 U.S.C. 826) is amended—

9 (1) in subsection (a), by inserting “and for
 10 ephedrine, pseudoephedrine, and phenylpropanola-
 11 mine” after “for each basic class of controlled sub-
 12 stance in schedules I and II”;

13 (2) in subsection (b), by inserting “or for
 14 ephedrine, pseudoephedrine, or phenylpropanola-
 15 mine” after “for each basic class of controlled sub-
 16 stance in schedule I or II”;

17 (3) in subsection (c), in the first sentence, by
 18 inserting “and for ephedrine, pseudoephedrine, and
 19 phenylpropanolamine” after “for the basic classes of
 20 controlled substances in schedules I and II”;

21 (4) in subsection (d), by inserting “or ephed-
 22 rine, pseudoephedrine, or phenylpropanolamine”
 23 after “that basic class of controlled substance”;

24 (5) in subsection (e), by inserting “or for
 25 ephedrine, pseudoephedrine, or phenylpropanola-

1 mine” after “for a basic class of controlled sub-
 2 stance in schedule I or II”;

3 (6) in subsection (f)—

4 (A) by inserting “or ephedrine,
 5 pseudoephedrine, or phenylpropanolamine”
 6 after “controlled substances in schedules I and
 7 II”;

8 (B) by inserting “or of ephedrine,
 9 pseudoephedrine, or phenylpropanolamine”
 10 after “the manufacture of a controlled sub-
 11 stance”; and

12 (C) by inserting “or chemicals” after
 13 “such incidentally produced substances”; and

14 (7) by adding at the end the following sub-
 15 section:

16 “(g) Each reference in this section to ephedrine,
 17 pseudoephedrine, or phenylpropanolamine includes each of
 18 the salts, optical isomers, and salts of optical isomers of
 19 such chemical.”.

20 **SEC. 214. PENALTIES; AUTHORITY FOR MANUFACTURING;**

21 **QUOTA.**

22 Section 402(b) of the Controlled Substances Act (21
 23 U.S.C. 842(b)) is amended by inserting after “manufac-
 24 ture a controlled substance in schedule I or II” the fol-
 25 lowing: “, or ephedrine, pseudoephedrine, or phenyl-

1 propanolamine or any of the salts, optical isomers, or salts
2 of optical isomers of such chemical,”

3 **SEC. 215. RESTRICTIONS ON IMPORTATION; AUTHORITY TO**
4 **PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC,**
5 **OR OTHER LEGITIMATE PURPOSES.**

6 Section 1002 of the Controlled Substances Import
7 and Export Act (21 U.S.C. 952) is amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1),
10 by inserting “or ephedrine, pseudoephedrine, or
11 phenylpropanolamine,” after “schedule III, IV,
12 or V of title II,”; and

13 (B) in paragraph (1), by inserting “, and
14 of ephedrine, pseudoephedrine, and phenyl-
15 propanolamine, ” after “coca leaves”; and

16 (2) by adding at the end the following sub-
17 sections:

18 “(d)(1) With respect to a registrant under section
19 1008 who is authorized under subsection (a)(1) to import
20 ephedrine, pseudoephedrine, or phenylpropanolamine, at
21 any time during the year the registrant may apply for an
22 increase in the amount of such chemical that the reg-
23 istrant is authorized to import, and the Attorney General
24 may approve the application if the Attorney General deter-
25 mines that the approval is necessary to provide for med-

1 ical, scientific, or other legitimate purposes regarding the
2 chemical.

3 “(2) With respect to the application under paragraph
4 (1):

5 “(A) Not later than 60 days after receiving the
6 application, the Attorney General shall approve or
7 deny the application.

8 “(B) In approving the application, the Attorney
9 General shall specify the period of time for which
10 the approval is in effect, or shall provide that the
11 approval is effective until the registrant involved is
12 notified in writing by the Attorney General that the
13 approval is terminated.

14 “(C) If the Attorney General does not approve
15 or deny the application before the expiration of the
16 60-day period under subparagraph (A), the applica-
17 tion is deemed to be approved, and such approval re-
18 mains in effect until the Attorney General notifies
19 the registrant in writing that the approval is termi-
20 nated.

21 “(e) Each reference in this section to ephedrine,
22 pseudoephedrine, or phenylpropanolamine includes each of
23 the salts, optical isomers, and salts of optical isomers of
24 such chemical.”.

1 **SEC. 216. NOTICE OF IMPORTATION OR EXPORTATION; AP-**
2 **PROVAL OF SALE OR TRANSFER BY IM-**
3 **PORTER OR EXPORTER.**

4 (a) IN GENERAL.—Section 1018 of the Controlled
5 Substances Import and Export Act (21 U.S.C. 971) is
6 amended—

7 (1) in subsection (b)(1), in the first sentence,
8 by striking “or to an importation by a regular im-
9 porter” and inserting “or to a transaction that is an
10 importation by a regular importer”;

11 (2) by redesignating subsections (d) and (e) as
12 subsections (e) and (f), respectively;

13 (3) by inserting after subsection (c) the fol-
14 lowing subsection:

15 “(d)(1)(A) Information provided in a notice under
16 subsection (a) or (b) shall include the name of the person
17 to whom the importer or exporter involved intends to
18 transfer the listed chemical involved, and the quantity of
19 such chemical to be transferred.

20 “(B) In the case of a notice under subsection (b) sub-
21 mitted by a regular importer, if the transferee identified
22 in the notice is not a regular customer, such importer may
23 not transfer the listed chemical until after the expiration
24 of the 15-day period beginning on the date on which the
25 notice is submitted to the Attorney General.

1 “(C) After a notice under subsection (a) or (b) is sub-
2 mitted to the Attorney General, if circumstances change
3 and the importer or exporter will not be transferring the
4 listed chemical to the transferee identified in the notice,
5 or will be transferring a greater quantity of the chemical
6 than specified in the notice, the importer or exporter shall
7 update the notice to identify the most recent prospective
8 transferee or the most recent quantity or both (as the case
9 may be) and may not transfer the listed chemical until
10 after the expiration of the 15-day period beginning on the
11 date on which the update is submitted to the Attorney
12 General, except that such 15-day restriction does not
13 apply if the prospective transferee identified in the update
14 is a regular customer. The preceding sentence applies with
15 respect to changing circumstances regarding a transferee
16 or quantity identified in an update to the same extent and
17 in the same manner as such sentence applies with respect
18 to changing circumstances regarding a transferee or quan-
19 tity identified in the original notice under subsection (a)
20 or (b).

21 “(D) In the case of a transfer of a listed chemical
22 that is subject to a 15-day restriction under subparagraph
23 (B) or (C), the transferee involved shall, upon the expira-
24 tion of the 15-day period, be considered to qualify as a

1 regular customer, unless the Attorney General otherwise
2 notifies the importer or exporter involved in writing.

3 “(2) With respect to a transfer of a listed chemical
4 with which a notice or update referred to in paragraph
5 (1) is concerned:

6 “(A) The Attorney General, in accordance with
7 the same procedures as apply under subsection
8 (c)(2)—

9 “(i) may order the suspension of the trans-
10 fer of the listed chemical by the importer or ex-
11 porter involved, except for a transfer to a reg-
12 ular customer, on the ground that the chemical
13 may be diverted to the clandestine manufacture
14 of a controlled substance (without regard to the
15 form of the chemical that may be diverted, in-
16 cluding the diversion of a finished drug product
17 to be manufactured from bulk chemicals to be
18 transferred), subject to the Attorney General
19 ordering such suspension before the expiration
20 of the 15-day period referred to in paragraph
21 (1) with respect to the importation or expor-
22 tation (in any case in which such a period ap-
23 plies); and

1 “(ii) may, for purposes of clause (i) and
2 paragraph (1), disqualify a regular customer on
3 such ground.

4 “(B) From and after the time when the Attor-
5 ney General provides written notice of the order
6 under subparagraph (A) (including a statement of
7 the legal and factual basis for the order) to the im-
8 porter or exporter, the importer or exporter may not
9 carry out the transfer.

10 “(3) For purposes of this subsection:

11 “(A) The terms ‘importer’ and ‘exporter’ mean
12 a regulated person who imports or exports a listed
13 chemical, respectively.

14 “(B) The term ‘transfer’, with respect to a list-
15 ed chemical, includes the sale of the chemical.

16 “(C) The term ‘transferee’ means a person to
17 whom an importer or exporter transfers a listed
18 chemical.”; and

19 (4) by adding at the end the following sub-
20 section:

21 “(g) Within 30 days after a transaction covered by
22 this section is completed, the importer or exporter shall
23 send the Attorney General a return declaration containing
24 particulars of the transaction, including the date, quan-
25 tity, chemical, container, name of transferees, and such

1 other information as the Attorney General may specify in
 2 regulations. For importers, a single return declaration
 3 may include the particulars of both the importation and
 4 distribution. If the importer has not distributed all chemi-
 5 cals imported by the end of the initial 30-day period, the
 6 importer shall file supplemental return declarations no
 7 later than 30 days from the date of any further distribu-
 8 tion, until the distribution or other disposition of all
 9 chemicals imported pursuant to the import notification or
 10 any update are accounted for.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) CONTROLLED SUBSTANCES IMPORT AND
 13 EXPORT ACT.—The Controlled Substances Import
 14 and Export Act (21 U.S.C. 951 et seq.) is amend-
 15 ed—

16 (A) in section 1010(d)(5), by striking “sec-
 17 tion 1018(e)(2) or (3)” and inserting “para-
 18 graph (2) or (3) of section 1018(f)”;

19 (B) in section 1018(c)(1), in the first sen-
 20 tence, by inserting before the period the fol-
 21 lowing: “(without regard to the form of the
 22 chemical that may be diverted, including the di-
 23 version of a finished drug product to be manu-
 24 factured from bulk chemicals to be trans-
 25 ferred)”.

1 (2) CONTROLLED SUBSTANCES ACT.—Section
2 310(b)(3)(D)(v) of the Controlled Substances Act
3 (21 U.S.C. 830(b)(3)(D)(v)) is amended by striking
4 “section 1018(e)(2)” and inserting “section
5 1018(f)(2)”.

6 **SEC. 217. ENFORCEMENT OF RESTRICTIONS ON IMPORTA-**
7 **TION AND OF REQUIREMENT OF NOTICE OF**
8 **TRANSFER.**

9 Section 1010(d)(6) of the Controlled Substances Im-
10 port and Export Act (21 U.S.C. 960(d)(6)) is amended
11 to read as follows:

12 “(6) imports a listed chemical in violation of
13 section 1002, imports or exports such a chemical in
14 violation of section 1007 or 1018, or transfers such
15 a chemical in violation of section 1018(d); or”.

16 **SEC. 218. COORDINATION WITH UNITED STATES TRADE**
17 **REPRESENTATIVE.**

18 In implementing sections 713 through 717 and sec-
19 tion 721 of this title, the Attorney General shall consult
20 with the United States Trade Representative to ensure im-
21 plementation complies with all applicable international
22 treaties and obligations of the United States.

3 SEC. 221. INFORMATION ON FOREIGN CHAIN OF DISTRIBUTION; IMPORT RESTRICTIONS REGARDING
4
5 FAILURE OF DISTRIBUTORS TO COOPERATE.

6 Section 1018 of the Controlled Substances Import
7 and Export Act (21 U.S.C. 971), as amended by section
8 716(a)(4) of this title, is further amended by adding at
9 the end the following subsection:

“(2) For the purpose of preventing or responding to the diversion of ephedrine, pseudoephedrine, or phenylpropanolamine for use in the illicit production of methamphetamine, the Attorney General may, in the case of any person who is a manufacturer or distributor of such chemical in the chain of distribution referred to in paragraph (1) (which person is referred to in this subsection as a ‘foreign-chain distributor’), request that such distributor provide to the Attorney General information

1 known to the distributor on the distribution of the chem-
2 ical, including sales.

3 “(3) If the Attorney General determines that a for-
4 eign-chain distributor is refusing to cooperate with the At-
5 torney General in obtaining the information referred to in
6 paragraph (2), the Attorney General may, in accordance
7 with procedures that apply under subsection (c), issue an
8 order prohibiting the importation of ephedrine,
9 pseudoephedrine, or phenylpropanolamine in any case in
10 which such distributor is part of the chain of distribution
11 for such chemical. Not later than 60 days prior to issuing
12 the order, the Attorney General shall publish in the Fed-
13 eral Register a notice of intent to issue the order. During
14 such 60-day period, imports of the chemical with respect
15 to such distributor may not be restricted under this para-
16 graph.”.

17 **SEC. 222. REQUIREMENTS RELATING TO THE LARGEST EX-**
18 **PORTING AND IMPORTING COUNTRIES OF**
19 **CERTAIN PRECURSOR CHEMICALS.**

20 (a) REPORTING REQUIREMENTS.—Section 489(a) of
21 the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a))
22 is amended by adding at the end the following new para-
23 graph:

24 “(8) A separate section that contains the fol-
25 lowing:

1 “(A) An identification of the five countries
2 that exported the largest amount of
3 pseudoephedrine, ephedrine, and phenyl-
4 propanolamine (including the salts, optical iso-
5 mers, or salts of optical isomers of such chemi-
6 cals, and also including any products or sub-
7 stances containing such chemicals) during the
8 preceding calendar year.

9 “(B) An identification of the five countries
10 that imported the largest amount of the chemi-
11 cals described in clause (i) during the preceding
12 calendar year and have the highest rate of di-
13 version of such chemicals for use in the illicit
14 production of methamphetamine (either in that
15 country or in another country).

16 “(C) An economic analysis of the total
17 worldwide production of the chemicals described
18 in clause (i) as compared to the legitimate de-
19 mand for such chemicals worldwide.

20 “(9) The identification of countries that im-
21 ported the largest amount of chemicals under sub-
22 paragraph (A)(ii) shall be based on the following:

23 “(A) An economic analysis that estimates
24 the legitimate demand for such chemicals in
25 such countries as compared to the actual or es-

1 timated amount of such chemicals that is im-
 2 ported into such countries.

3 “(B) The best available data and other in-
 4 formation regarding the production of meth-
 5 amphetamine in such countries and the diver-
 6 sion of such chemicals for use in the production
 7 of methamphetamine.”.

8 (b) ANNUAL CERTIFICATION PROCEDURES.—Section
 9 490(a) of the Foreign Assistance Act of 1961 (22 U.S.C.
 10 2291j(a)) is amended—

11 (1) in paragraph (1), by striking “major illicit
 12 drug producing country or major drug-transit coun-
 13 try” and inserting “major illicit drug producing
 14 country, major drug-transit country, or country
 15 identified pursuant to clause (i) or (ii) of section
 16 489(a)(8)(A) of this Act”; and

17 (2) in paragraph (2), by inserting after “(as de-
 18 termined under subsection (h))” the following: “or
 19 country identified pursuant to clause (i) or (ii) of
 20 section 489(a)(8)(A) of this Act”.

21 (c) CONFORMING AMENDMENT.—Section 706 of the
 22 Foreign Relations Authorization Act, Fiscal Year 2003
 23 (22 U.S.C. 2291j–1) is amended in paragraph (5) by add-
 24 ing at the end the following:

1 “(C) Nothing in this section shall affect the re-
2 quirements of section 490 of the Foreign Assistance
3 Act of 1961 (22 U.S.C. 2291j) with respect to coun-
4 tries identified pursuant to section clause (i) or (ii)
5 of 489(a)(8)(A) of the Foreign Assistance Act of
6 1961.”.

7 (d) PLAN TO ADDRESS DIVERSION OF PRECURSOR
8 CHEMICALS.—In the case of each country identified pur-
9 suant to clause (i) or (ii) of section 489(a)(8)(A) of the
10 Foreign Assistance Act of 1961 (as added by subsection
11 (a)) with respect to which the President has not trans-
12 mitted to Congress a certification under section 490(b) of
13 such Act (22 U.S.C. 2291j(b)), the Secretary of State, in
14 consultation with the Attorney General, shall, not later
15 than 180 days after the date on which the President trans-
16 mits the report required by section 489(a) of such Act (22
17 U.S.C. 2291h(a)), submit to Congress a comprehensive
18 plan to address the diversion of the chemicals described
19 in section 489(a)(8)(A)(i) of such Act to the illicit produc-
20 tion of methamphetamine in such country or in another
21 country, including the establishment, expansion, and en-
22 hancement of regulatory, law enforcement, and other in-
23 vestigative efforts to prevent such diversion.

24 (e) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary of State

1 to carry out this section \$1,000,000 for each of the fiscal
2 years 2006 and 2007.

3 **SEC. 223. PREVENTION OF SMUGGLING OF METHAMPHET-**
4 **AMINE INTO THE UNITED STATES FROM MEX-**
5 **ICO.**

6 (a) IN GENERAL.—The Secretary of State, acting
7 through the Assistant Secretary of the Bureau for Inter-
8 national Narcotics and Law Enforcement Affairs, shall
9 take such actions as are necessary to prevent the smug-
10 gling of methamphetamine into the United States from
11 Mexico.

12 (b) SPECIFIC ACTIONS.—In carrying out subsection
13 (a), the Secretary shall—

14 (1) improve bilateral efforts at the United
15 States-Mexico border to prevent the smuggling of
16 methamphetamine into the United States from Mex-
17 ico;

18 (2) seek to work with Mexican law enforcement
19 authorities to improve the ability of such authorities
20 to combat the production and trafficking of meth-
21 amphetamine, including by providing equipment and
22 technical assistance, as appropriate; and

23 (3) encourage the Government of Mexico to
24 take immediate action to reduce the diversion of
25 pseudoephedrine by drug trafficking organizations

1 for the production and trafficking of methamphet-
 2 amine.

3 (c) REPORT.—Not later than one year after the date
 4 of the enactment of this Act, and annually thereafter, the
 5 Secretary shall submit to the appropriate congressional
 6 committees a report on the implementation of this section
 7 for the prior year.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to the Secretary to carry
 10 out this section \$4,000,000 for each of the fiscal years
 11 2006 and 2007.

12 **Subtitle C—Enhanced Criminal**
 13 **Penalties for Methamphetamine**
 14 **Production and Trafficking**

15 **SEC. 231. SMUGGLING METHAMPHETAMINE OR METH-**
 16 **AMPHETAMINE PRECURSOR CHEMICALS**
 17 **INTO THE UNITED STATES WHILE USING FA-**
 18 **CILITATED ENTRY PROGRAMS.**

19 (a) ENHANCED PRISON SENTENCE.—The sentence
 20 of imprisonment imposed on a person convicted of an of-
 21 fense under the Controlled Substances Act (21 U.S.C. 801
 22 et seq.) or the Controlled Substances Import and Export
 23 Act (21 U.S.C. 951 et seq.), involving methamphetamine
 24 or any listed chemical that is defined in section 102(33)
 25 of the Controlled Substances Act (21 U.S.C. 802(33),

1 shall, if the offense is committed under the circumstance
2 described in subsection (b), be increased by a consecutive
3 term of imprisonment of not more than 15 years.

4 (b) CIRCUMSTANCES.—For purposes of subsection
5 (a), the circumstance described in this subsection is that
6 the offense described in subsection (a) was committed by
7 a person who—

8 (1) was enrolled in, or who was acting on behalf
9 of any person or entity enrolled in, any dedicated
10 commuter lane, alternative or accelerated inspection
11 system, or other facilitated entry program adminis-
12 tered or approved by the Federal Government for
13 use in entering the United States; and

14 (2) committed the offense while entering the
15 United States, using such lane, system, or program.

16 (c) PERMANENT INELIGIBILITY.—Any person whose
17 term of imprisonment is increased under subsection (a)
18 shall be permanently and irrevocably barred from being
19 eligible for or using any lane, system, or program de-
20 scribed in subsection (b)(1).

21 **SEC. 232. MANUFACTURING CONTROLLED SUBSTANCES ON**
22 **FEDERAL PROPERTY.**

23 Subsection (b) of section 401 of the Controlled Sub-
24 stances Act (21 U.S.C. 841(b)) is amended in paragraph
25 (5) by inserting “or manufacturing” after “cultivating”.

1 **SEC. 233. INCREASED PUNISHMENT FOR METHAMPHET-**
2 **AMINE KINGPINS.**

3 Section 408 of the Controlled Substances Act (21
4 U.S.C. 848) is amended by adding at the end the fol-
5 lowing:

6 “(s) SPECIAL PROVISION FOR METHAMPHET-
7 AMINE.—For the purposes of subsection (b), in the case
8 of continuing criminal enterprise involving methamphet-
9 amine or its salts, isomers, or salts of isomers, paragraph
10 (2)(A) shall be applied by substituting ‘200’ for ‘300’, and
11 paragraph (2)(B) shall be applied by substituting
12 ‘\$5,000,000’ for ‘\$10 million dollars’.”.

13 **SEC. 234. NEW CHILD-PROTECTION CRIMINAL ENHANCE-**
14 **MENT.**

15 (a) IN GENERAL.—The Controlled Substances Act is
16 amended by inserting after section 419 (21 U.S.C. 860)
17 the following:

18 “CONSECUTIVE SENTENCE FOR MANUFACTURING OR DIS-
19 TRIBUTING, OR POSSESSING WITH INTENT TO MANU-
20 FACTURE OR DISTRIBUTE, METHAMPHETAMINE ON
21 PREMISES WHERE CHILDREN ARE PRESENT OR RE-
22 SIDE

23 “SEC. 419. Whoever violates section 401(a)(1) by
24 manufacturing or distributing, or possessing with intent
25 to manufacture or distribute, methamphetamine or its
26 salts, isomers or salts of isomers on premises in which an

1 individual who is under the age of 18 years is present or
 2 resides, shall, in addition to any other sentence imposed,
 3 be imprisoned for a period of any term of years but not
 4 more than 20 years, subject to a fine, or both.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
 6 of the Comprehensive Drug Abuse Prevention and Control
 7 Act of 1970 is amended by inserting after the item relat-
 8 ing to section 419 the following new item:

“Sec. 419a. Consecutive sentence for manufacturing or distributing, or pos-
 sessing with intent to manufacture or distribute, methamphet-
 amine on premises where children are present or reside.”.

9 **SEC. 235. AMENDMENTS TO CERTAIN SENTENCING COURT**
 10 **REPORTING REQUIREMENTS.**

11 Section 994(w) of title 28, United States Code, is
 12 amended—

13 (1) in paragraph (1)—

14 (A) by inserting “, in a format approved
 15 and required by the Commission,” after “sub-
 16 mits to the Commission”;

17 (B) in subparagraph (B)—

18 (i) by inserting “written” before
 19 “statement of reasons”; and

20 (ii) by inserting “and which shall be
 21 stated on the written statement of reasons
 22 form issued by the Judicial Conference and
 23 approved by the United States Sentencing

1 Commission” after “applicable guideline
2 range”; and

3 (C) by adding at the end the following:

4 “The information referred to in subparagraphs (A)
5 through (F) shall be submitted by the sentencing court
6 in a format approved and required by the Commission.”;
7 and

8 (2) in paragraph (4), by striking “may assem-
9 ble or maintain in electronic form that include any”
10 and inserting “itself may assemble or maintain in
11 electronic form as a result of the”.

12 **SEC. 236. SEMIANNUAL REPORTS TO CONGRESS.**

13 (a) IN GENERAL.—The Attorney General shall, on a
14 semiannual basis, submit to the congressional committees
15 and organizations specified in subsection (b) reports
16 that—

17 (1) describe the allocation of the resources of
18 the Drug Enforcement Administration and the Fed-
19 eral Bureau of Investigation for the investigation
20 and prosecution of alleged violations of the Con-
21 trolled Substances Act involving methamphetamine;
22 and

23 (2) the measures being taken to give priority in
24 the allocation of such resources to such violations in-
25 volving—

1 (A) persons alleged to have imported into
2 the United States substantial quantities of
3 methamphetamine or scheduled listed chemicals
4 (as defined pursuant to the amendment made
5 by section 711(a)(1));

6 (B) persons alleged to have manufactured
7 methamphetamine; and

8 (C) circumstances in which the violations
9 have endangered children.

10 (b) CONGRESSIONAL COMMITTEES.—The congres-
11 sional committees and organizations referred to in sub-
12 section (a) are—

13 (1) in the House of Representatives, the Com-
14 mittee on the Judiciary, the Committee on Energy
15 and Commerce, and the Committee on Government
16 Reform; and

17 (2) in the Senate, the Committee on the Judici-
18 ary, the Committee on Commerce, Science, and
19 Transportation, and the Caucus on International
20 Narcotics Control.

1 **Subtitle D—Enhanced Environ-**
 2 **mental Regulation of Meth-**
 3 **amphetamine Byproducts**

4 **SEC. 241. BIENNIAL REPORT TO CONGRESS ON AGENCY**
 5 **DESIGNATIONS OF BY-PRODUCTS OF METH-**
 6 **AMPHETAMINE LABORATORIES AS HAZ-**
 7 **ARDOUS MATERIALS.**

8 Section 5103 of title 49, Unites States Code, is
 9 amended by adding at the end the following:

10 “(d) BIENNIAL REPORT.—The Secretary of Trans-
 11 portation shall submit to the Committee on Transpor-
 12 tation and Infrastructure of the House of Representatives
 13 and the Senate Committee on Commerce, Science, and
 14 Transportation a biennial report providing information on
 15 whether the Secretary has designated as hazardous mate-
 16 rials for purposes of chapter 51 of such title all by-prod-
 17 ucts of the methamphetamine-production process that are
 18 known by the Secretary to pose an unreasonable risk to
 19 health and safety or property when transported in com-
 20 merce in a particular amount and form.”.

21 **SEC. 242. METHAMPHETAMINE PRODUCTION REPORT.**

22 Section 3001 of the Solid Waste Disposal Act (42
 23 U.S.C. 6921) is amended at the end by adding the fol-
 24 lowing:

1 “(j) METHAMPHETAMINE PRODUCTION.—Not later
 2 than every 24 months, the Administrator shall submit to
 3 the Committee on Energy and Commerce of the House
 4 of Representatives and the Committee on Environment
 5 and Public Works of the Senate a report setting forth in-
 6 formation collected by the Administrator from law enforce-
 7 ment agencies, States, and other relevant stakeholders
 8 that identifies the byproducts of the methamphetamine
 9 production process and whether the Administrator con-
 10 sideres each of the byproducts to be a hazardous waste pur-
 11 suant to this section and relevant regulations.”.

12 **SEC. 243. CLEANUP COSTS.**

13 (a) IN GENERAL.—Section 413(q) of the Controlled
 14 Substances Act (21 U.S.C. 853(q)) is amended—

15 (1) in the matter preceding paragraph (1), by
 16 inserting “, the possession, or the possession with in-
 17 tent to distribute, ” after “manufacture”; and

18 (2) in paragraph (2), by inserting “, or on
 19 premises or in property that the defendant owns, re-
 20 sides, or does business in” after “by the defendant”.

21 (b) SAVINGS CLAUSE.—Nothing in this section shall
 22 be interpreted or construed to amend, alter, or otherwise
 23 affect the obligations, liabilities and other responsibilities
 24 of any person under any Federal or State environmental
 25 laws.

1 **Subtitle E—Additional Programs**
 2 **and Activities**

3 **SEC. 251. IMPROVEMENTS TO DEPARTMENT OF JUSTICE**
 4 **DRUG COURT GRANT PROGRAM.**

5 Section 2951 of the Omnibus Crime Control and Safe
 6 Streets Act of 1968 (42 U.S.C. 3797u) is amended by
 7 adding at the end the following new subsection:

8 “(c) MANDATORY DRUG TESTING AND MANDATORY
 9 SANCTIONS.—

10 “(1) MANDATORY TESTING.—Grant amounts
 11 under this part may be used for a drug court only
 12 if the drug court has mandatory periodic testing as
 13 described in subsection (a)(3)(A). The Attorney
 14 General shall, by prescribing guidelines or regula-
 15 tions, specify standards for the timing and manner
 16 of complying with such requirements. The stand-
 17 ards—

18 “(A) shall ensure that—

19 “(i) each participant is tested for
 20 every controlled substance that the partici-
 21 pant has been known to abuse, and for any
 22 other controlled substance the Attorney
 23 General or the court may require; and

24 “(ii) the testing is accurate and prac-
 25 ticable; and

1 “(B) may require approval of the drug
2 testing regime to ensure that adequate testing
3 occurs.

4 “(2) MANDATORY SANCTIONS.—The Attorney
5 General shall, by prescribing guidelines or regula-
6 tions, specify that grant amounts under this part
7 may be used for a drug court only if the drug court
8 imposes graduated sanctions that increase punitive
9 measures, therapeutic measures, or both whenever a
10 participant fails a drug test. Such sanctions and
11 measures may include, but are not limited to, one or
12 more of the following:

13 “(A) Incarceration.

14 “(B) Detoxification treatment.

15 “(C) Residential treatment.

16 “(D) Increased time in program.

17 “(E) Termination from the program.

18 “(F) Increased drug screening require-
19 ments.

20 “(G) Increased court appearances.

21 “(H) Increased counseling.

22 “(I) Increased supervision.

23 “(J) Electronic monitoring.

24 “(K) In-home restriction.

25 “(L) Community service.

1 “(M) Family counseling.

2 “(N) Anger management classes.”.

3 **SEC. 252. DRUG COURTS FUNDING.**

4 Section 1001(25)(A) of title I of the Omnibus Crime
5 Control and Safe Streets Act of 1968 (42 U.S.C.
6 2591(25)(A)) is amended by adding at the end the fol-
7 lowing:

8 “(v) \$70,000,000 for fiscal year
9 2006.”.

10 **SEC. 253. FEASIBILITY STUDY ON FEDERAL DRUG COURTS.**

11 The Attorney General shall, conduct a feasibility
12 study on the desirability of a drug court program for Fed-
13 eral offenders who are addicted to controlled substances.
14 The Attorney General lower-level, non-violate report the
15 results of that study to Congress not later than June 30,
16 2006.

17 **SEC. 254. GRANTS TO HOT SPOT AREAS TO REDUCE AVAIL-**
18 **ABILITY OF METHAMPHETAMINE.**

19 Title I of the Omnibus Crime Control and Safe
20 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended
21 by adding at the end the following:

**“PART II—CONFRONTING USE OF
METHAMPHETAMINE**

**“SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS
PUBLIC SAFETY AND METHAMPHETAMINE
MANUFACTURING, SALE, AND USE IN HOT
SPOTS.**

“(a) PURPOSE AND PROGRAM AUTHORITY.—

“(1) PURPOSE.—It is the purpose of this part
to assist States—

“(A) to carry out programs to address the
manufacture, sale, and use of methamphet-
amine drugs; and

“(B) to improve the ability of State and
local government institutions of to carry out
such programs.

“(2) GRANT AUTHORIZATION.—The Attorney
General, through the Bureau of Justice Assistance
in the Office of Justice Programs may make grants
to States to address the manufacture, sale, and use
of methamphetamine to enhance public safety.

“(3) GRANT PROJECTS TO ADDRESS METH-
AMPHETAMINE MANUFACTURE SALE AND USE.—
Grants made under subsection (a) may be used for
programs, projects, and other activities to—

1 “(A) investigate, arrest and prosecute indi-
2 viduals violating laws related to the use, manu-
3 facture, or sale of methamphetamine;

4 “(B) reimburse the Drug Enforcement Ad-
5 ministration for expenses related to the clean
6 up of methamphetamine clandestine labs;

7 “(C) support State and local health depart-
8 ment and environmental agency services de-
9 ployed to address methamphetamine; and

10 “(D) procure equipment, technology, or
11 support systems, or pay for resources, if the ap-
12 plicant for such a grant demonstrates to the
13 satisfaction of the Attorney General that ex-
14 penditures for such purposes would result in
15 the reduction in the use, sale, and manufacture
16 of methamphetamine.

17 **“SEC. 2997. FUNDING.**

18 “There are authorized to be appropriated to carry out
19 this part \$99,000,000 for each fiscal year 2006, 2007,
20 2008, 2009, and 2010.”.

21 **SEC. 255. GRANTS FOR PROGRAMS FOR DRUG-ENDAN-**
22 **GERED CHILDREN.**

23 (a) IN GENERAL.—The Attorney General shall make
24 grants to States for the purpose of carrying out programs
25 to provide comprehensive services to aid children who are

1 living in a home in which methamphetamine or other con-
 2 trolled substances are unlawfully manufactured, distrib-
 3 uted, dispensed, or used.

4 (b) CERTAIN REQUIREMENTS.—The Attorney Gen-
 5 eral shall ensure that the services carried out with grants
 6 under subsection (a) include the following:

7 (1) Coordination among law enforcement agen-
 8 cies, prosecutors, child protective services, social
 9 services, health care services, and any other services
 10 determined to be appropriate by the Attorney Gen-
 11 eral to provide assistance regarding the problems of
 12 children described in subsection (a).

13 (2) Transition of children from toxic or drug-
 14 endangering environments to appropriate residential
 15 environments.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—For the
 17 purpose of carrying out this section, there are authorized
 18 to be appropriated \$20,000,000 for each of the fiscal years
 19 2006 and 2007. Amounts appropriated under the pre-
 20 ceding sentence shall remain available until expended.

21 **SEC. 256. AUTHORITY TO AWARD COMPETITIVE GRANTS TO**
 22 **ADDRESS METHAMPHETAMINE USE BY PREG-**
 23 **NANT AND PARENTING WOMEN OFFENDERS.**

24 (a) PURPOSE AND PROGRAM AUTHORITY.—

1 (1) GRANT AUTHORIZATION.—The Attorney
2 General may award competitive grants to address
3 the use of methamphetamine among pregnant and
4 parenting women offenders to promote public safety,
5 public health, family permanence and well being.

6 (2) PURPOSES AND PROGRAM AUTHORITY.—
7 Grants awarded under this section shall be used to
8 facilitate or enhance and collaboration between the
9 criminal justice, child welfare, and State substance
10 abuse systems in order to carry out programs to ad-
11 dress the use of methamphetamine drugs by preg-
12 nant and parenting women offenders.

13 (b) DEFINITIONS.—In this section, the following defi-
14 nitions shall apply:

15 (1) CHILD WELFARE AGENCY.—The term
16 “child welfare agency” means the State agency re-
17 sponsible for child and/or family services and wel-
18 fare.

19 (2) CRIMINAL JUSTICE AGENCY.—The term
20 “criminal justice agency” means an agency of the
21 State or local government or its contracted agency
22 that is responsible for detection, arrest, enforcement,
23 prosecution, defense, adjudication, incarceration,
24 probation, or parole relating to the violation of the
25 criminal laws of that State or local government.

1 (c) APPLICATIONS.—

2 (1) IN GENERAL.—No grant may be awarded
3 under this section unless an application has been
4 submitted to, and approved by, the Attorney Gen-
5 eral.

6 (2) APPLICATION.—An application for a grant
7 under this section shall be submitted in such form,
8 and contain such information, as the Attorney Gen-
9 eral, may prescribe by regulation or guidelines.

10 (3) ELIGIBLE ENTITIES.—The Attorney Gen-
11 eral shall make grants to States, territories, and In-
12 dian Tribes. Applicants must demonstrate extensive
13 collaboration with the State criminal justice agency
14 and child welfare agency in the planning and imple-
15 mentation of the program.

16 (4) CONTENTS.—In accordance with the regula-
17 tions or guidelines established by the Attorney Gen-
18 eral in consultation with the Secretary of Health and
19 Human Services, each application for a grant under
20 this section shall contain a plan to expand the
21 State's services for pregnant and parenting women
22 offenders who are pregnant women and/or women
23 with dependent children for the use of methamphet-
24 amine or methamphetamine and other drugs and in-
25 clude the following in the plan:

1 (A) A description of how the applicant will
2 work jointly with the State criminal justice and
3 child welfare agencies needs associated with the
4 use of methamphetamine or methamphetamine
5 and other drugs by pregnant and parenting
6 women offenders to promote family stability
7 and permanence.

8 (B) A description of the nature and the ex-
9 tent of the problem of methamphetamine use by
10 pregnant and parenting women offenders.

11 (C) A certification that the State has in-
12 volved counties and other units of local govern-
13 ment, when appropriate, in the development, ex-
14 pansion, modification, operation or improve-
15 ment of proposed programs to address the use,
16 manufacture, or sale of methamphetamine.

17 (D) A certification that funds received
18 under this section will be used to supplement,
19 not supplant, other Federal, State, and local
20 funds.

21 (E) A description of clinically appropriate
22 practices and procedures to—

23 (i) screen and assess pregnant and
24 parenting women offenders for addiction to
25 methamphetamine and other drugs;

1 (ii) when clinically appropriate for
 2 both the women and children, provide fam-
 3 ily treatment for pregnant and parenting
 4 women offenders, with clinically appro-
 5 priate services in the same location to pro-
 6 mote family permanence and self suffi-
 7 ciency; and

8 (iii) provide for a process to enhance
 9 or ensure the abilities of the child welfare
 10 agency, criminal justice agency and State
 11 substance agency to work together to re-
 12 unite families when appropriate in the case
 13 where family treatment is not provided.

14 (d) PERIOD OF GRANT.—The grant shall be a three-
 15 year grant. Successful applicants may reapply for only one
 16 additional three-year funding cycle and the Attorney Gen-
 17 eral may approve such applications.

18 (e) PERFORMANCE ACCOUNTABILITY; REPORTS AND
 19 EVALUATIONS.—

20 (1) REPORTS.—Successful applicants shall sub-
 21 mit to the Attorney General a report on the activi-
 22 ties carried out under the grant at the end of each
 23 fiscal year.

24 (2) EVALUATIONS.—Not later than 12 months
 25 at the end of the 3 year funding cycle under this

1 section, the Attorney General shall submit a report
 2 to the appropriate committees of jurisdiction that
 3 summarizes the results of the evaluations conducted
 4 by recipients and recommendations for further legis-
 5 lative action.

6 **TITLE III—REDUCING CRIME**
 7 **AND TERRORISM AT AMER-**
 8 **ICA’S SEAPORTS**

9 **SEC. 301. SHORT TITLE.**

10 This title may be cited as the “Reducing Crime and
 11 Terrorism at America’s Seaports Act of 2005”.

12 **SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

13 (a) IN GENERAL.—Section 1036 of title 18, United
 14 States Code, is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (2), by striking “or” at
 17 the end;

18 (B) by redesignating paragraph (3) as
 19 paragraph (4); and

20 (C) by inserting after paragraph (2) the
 21 following:

22 “(3) any secure or restricted area of any sea-
 23 port, designated as secure in an approved security
 24 plan, as required under section 70103 of title 46,

1 United States Code, and the rules and regulations
2 promulgated under that section; or”;

3 (2) in subsection (b)(1), by striking “5 years”
4 and inserting “10 years”;

5 (3) in subsection (c)(1), by inserting “, captain
6 of the seaport,” after “airport authority”; and

7 (4) by striking the section heading and insert-
8 ing the following:

9 **“§ 1036. Entry by false pretenses to any real property,**
10 **vessel, or aircraft of the United States or**
11 **secure area of any airport or seaport”.**

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of sections for chapter 47 of title 18 is amended
14 by striking the matter relating to section 1036 and insert-
15 ing the following:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the
United States or secure area of any airport or seaport.”.

16 (c) DEFINITION OF SEAPORT.—Chapter 1 of title 18,
17 United States Code, is amended by adding at the end the
18 following:

19 **“§ 26. Definition of seaport**

20 “As used in this title, the term ‘seaport’ means all
21 piers, wharves, docks, and similar structures, adjacent to
22 any waters subject to the jurisdiction of the United States,
23 to which a vessel may be secured, including areas of land,
24 water, or land and water under and in immediate prox-

1 imity to such structures, buildings on or contiguous to
 2 such structures, and the equipment and materials on such
 3 structures or in such buildings.”.

4 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 5 The table of sections for chapter 1 of title 18 is amended
 6 by inserting after the matter relating to section 25 the
 7 following:

“26. Definition of seaport.”.

8 **SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE**
 9 **TO, OBSTRUCTION OF BOARDING, OR PRO-**
 10 **VIDING FALSE INFORMATION.**

11 (a) OFFENSE.—Chapter 109 of title 18, United
 12 States Code, is amended by adding at the end the fol-
 13 lowing:

14 **“§ 2237. Criminal sanctions for failure to heave to, ob-**
 15 **struction of boarding, or providing false**
 16 **information**

17 “(a)(1) It shall be unlawful for the master, operator,
 18 or person in charge of a vessel of the United States, or
 19 a vessel subject to the jurisdiction of the United States,
 20 to knowingly fail to obey an order by an authorized Fed-
 21 eral law enforcement officer to heave to that vessel.

22 “(2) It shall be unlawful for any person on board a
 23 vessel of the United States, or a vessel subject to the juris-
 24 diction of the United States, to—

1 “(A) forcibly resist, oppose, prevent, impede, in-
2 timidate, or interfere with a boarding or other law
3 enforcement action authorized by any Federal law or
4 to resist a lawful arrest; or

5 “(B) provide materially false information to a
6 Federal law enforcement officer during a boarding of
7 a vessel regarding the vessel’s destination, origin,
8 ownership, registration, nationality, cargo, or crew.

9 “(b) Any person who intentionally violates this sec-
10 tion shall be fined under this title or imprisoned for not
11 more than 5 years, or both.

12 “(c) This section does not limit the authority of a
13 customs officer under section 581 of the Tariff Act of
14 1930 (19 U.S.C. 1581), or any other provision of law en-
15 forced or administered by the Secretary of the Treasury
16 or the Secretary of Homeland Security, or the authority
17 of any Federal law enforcement officer under any law of
18 the United States, to order a vessel to stop or heave to.

19 “(d) A foreign nation may consent or waive objection
20 to the enforcement of United States law by the United
21 States under this section by radio, telephone, or similar
22 oral or electronic means. Consent or waiver may be proven
23 by certification of the Secretary of State or the designee
24 of the Secretary of State.

25 “(e) In this section—

1 “(1) the term ‘Federal law enforcement officer’
 2 has the meaning given the term in section 115(c);

3 “(2) the term ‘heave to’ means to cause a vessel
 4 to slow, come to a stop, or adjust its course or speed
 5 to account for the weather conditions and sea state
 6 to facilitate a law enforcement boarding;

7 “(3) the term ‘vessel subject to the jurisdiction
 8 of the United States’ has the meaning given the
 9 term in section 2 of the Maritime Drug Law En-
 10 forcement Act (46 U.S.C. App. 1903); and

11 “(4) the term ‘vessel of the United States’ has
 12 the meaning given the term in section 2 of the Mari-
 13 time Drug Law Enforcement Act (46 U.S.C. App.
 14 1903).”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
 16 tions for chapter 109, title 18, United States Code, is
 17 amended by inserting after the item for section 2236 the
 18 following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or
 providing false information.”.

19 **SEC. 304. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**
 20 **MARITIME NAVIGATION, PLACEMENT OF DE-**
 21 **STRUCTIVE DEVICES.**

22 (a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chap-
 23 ter 111 of title 18, United States Code, as amended by

1 subsection (a), is further amended by adding at the end
2 the following:

3 **“§ 2282A. Devices or dangerous substances in waters**
4 **of the United States likely to destroy or**
5 **damage ships or to interfere with mari-**
6 **time commerce**

7 “(a) A person who knowingly places, or causes to be
8 placed, in navigable waters of the United States, by any
9 means, a device or dangerous substance which is likely to
10 destroy or cause damage to a vessel or its cargo, cause
11 interference with the safe navigation of vessels, or inter-
12 ference with maritime commerce (such as by damaging or
13 destroying marine terminals, facilities, or any other ma-
14 rine structure or entity used in maritime commerce) with
15 the intent of causing such destruction or damage, inter-
16 ference with the safe navigation of vessels, or interference
17 with maritime commerce shall be fined under this title or
18 imprisoned for any term of years, or for life; or both.

19 “(b) A person who causes the death of any person
20 by engaging in conduct prohibited under subsection (a)
21 may be punished by death.

22 “(c) Nothing in this section shall be construed to
23 apply to otherwise lawfully authorized and conducted ac-
24 tivities of the United States Government.

25 “(d) In this section:

1 “(1) The term ‘dangerous substance’ means
2 any solid, liquid, or gaseous material that has the
3 capacity to cause damage to a vessel or its cargo, or
4 cause interference with the safe navigation of a ves-
5 sel.

6 “(2) The term ‘device’ means any object that,
7 because of its physical, mechanical, structural, or
8 chemical properties, has the capacity to cause dam-
9 age to a vessel or its cargo, or cause interference
10 with the safe navigation of a vessel.”.

11 (2) CONFORMING AMENDMENT.—The table of
12 sections for chapter 111 of title 18, United States
13 Code, as amended by subsection (b), is further
14 amended by adding after the item related to section
15 2282 the following:

“2282A. Devices or dangerous substances in waters of the United States likely
to destroy or damage ships or to interfere with maritime com-
merce.”.

16 (b) VIOLENCE AGAINST MARITIME NAVIGATION.—

17 (1) IN GENERAL.—Chapter 111 of title 18,
18 United States Code as amended by subsections (a)
19 and (c), is further amended by adding at the end the
20 following:

21 **“§ 2282B. Violence against aids to maritime naviga-**
22 **tion**

23 “Whoever intentionally destroys, seriously damages,
24 alters, moves, or tampers with any aid to maritime naviga-

tion maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship, shall be fined under this title or imprisoned for not more than 20 years, or both.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsections (b) and (d) is further amended by adding after the item related to section 2282A the following:

“2282B. Violence against aids to maritime navigation.”.

**SEC. 305. TRANSPORTATION OF DANGEROUS MATERIALS
AND TERRORISTS.**

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 305, is further amended by adding at the end the following:

“§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

“(a) IN GENERAL.—Whoever knowingly transports aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any ves-

1 sel outside the United States and on the high seas or hav-
 2 ing United States nationality an explosive or incendiary
 3 device, biological agent, chemical weapon, or radioactive
 4 or nuclear material, knowing that any such item is in-
 5 tended to be used to commit an offense listed under sec-
 6 tion 2332b(g)(5)(B), shall be fined under this title or im-
 7 prisoned for any term of years or for life, or both.

8 “(b) CAUSING DEATH.—Any person who causes the
 9 death of a person by engaging in conduct prohibited by
 10 subsection (a) may be punished by death.

11 “(c) DEFINITIONS.—In this section:

12 “(1) BIOLOGICAL AGENT.—The term ‘biological
 13 agent’ means any biological agent, toxin, or vector
 14 (as those terms are defined in section 178).

15 “(2) BY-PRODUCT MATERIAL.—The term ‘by-
 16 product material’ has the meaning given that term
 17 in section 11(e) of the Atomic Energy Act of 1954
 18 (42 U.S.C. 2014(e)).

19 “(3) CHEMICAL WEAPON.—The term ‘chemical
 20 weapon’ has the meaning given that term in section
 21 229F(1).

22 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The
 23 term ‘explosive or incendiary device’ has the mean-
 24 ing given the term in section 232(5) and includes ex-

1 plosive materials, as that term is defined in section
 2 841(c) and explosive as defined in section 844(j).

3 “(5) NUCLEAR MATERIAL.—The term ‘nuclear
 4 material’ has the meaning given that term in section
 5 831(f)(1).

6 “(6) RADIOACTIVE MATERIAL.—The term ‘ra-
 7 dioactive material’ means—

8 “(A) source material and special nuclear
 9 material, but does not include natural or de-
 10 pleted uranium;

11 “(B) nuclear by-product material;

12 “(C) material made radioactive by bom-
 13 bardment in an accelerator; or

14 “(D) all refined isotopes of radium.

15 “(7) SOURCE MATERIAL.—The term ‘source
 16 material’ has the meaning given that term in section
 17 11(z) of the Atomic Energy Act of 1954 (42 U.S.C.
 18 2014(z)).

19 “(8) SPECIAL NUCLEAR MATERIAL.—The term
 20 ‘special nuclear material’ has the meaning given that
 21 term in section 11(aa) of the Atomic Energy Act of
 22 1954 (42 U.S.C. 2014(aa)).

23 **“§ 2284. Transportation of terrorists**

24 “(a) IN GENERAL.—Whoever knowingly and inten-
 25 tionally transports any terrorist aboard any vessel within

1 the United States and on waters subject to the jurisdiction
 2 of the United States or any vessel outside the United
 3 States and on the high seas or having United States na-
 4 tionality, knowing that the transported person is a ter-
 5 rorist, shall be fined under this title or imprisoned for any
 6 term of years or for life, or both.

7 “(b) DEFINED TERM.—In this section, the term ‘ter-
 8 rorist’ means any person who intends to commit, or is
 9 avoiding apprehension after having committed, an offense
 10 listed under section 2332b(g)(5)(B).”.

11 (b) CONFORMING AMENDMENT.—The table of sec-
 12 tions for chapter 111 of title 18, United States Code, as
 13 amended by section 305, is further amended by adding
 14 at the end the following:

“2283. Transportation of explosive, chemical, biological, or radioactive or nu-
 clear materials.

“2284. Transportation of terrorists.”.

15 **SEC. 306. DESTRUCTION OF, OR INTERFERENCE WITH, VES-**
 16 **SELS OR MARITIME FACILITIES.**

17 (a) IN GENERAL.—Title 18, United States Code, is
 18 amended by inserting after chapter 111 the following:

19 **“CHAPTER 111A—DESTRUCTION OF, OR**
 20 **INTERFERENCE WITH, VESSELS OR**
 21 **MARITIME FACILITIES**

“Sec.

“2290. Jurisdiction and scope.

“2291. Destruction of vessel or maritime facility.

“2292. Imparting or conveying false information.

1 **“§ 2290. Jurisdiction and scope**

2 “(a) JURISDICTION.—There is jurisdiction, including
3 extraterritorial jurisdiction, over an offense under this
4 chapter if the prohibited activity takes place—

5 “(1) within the United States and within waters
6 subject to the jurisdiction of the United States; or

7 “(2) outside United States and—

8 “(A) an offender or a victim is a national
9 of the United States (as that term is defined
10 under section 101(a)(22) of the Immigration
11 and Nationality Act (8 U.S.C. 1101(a)(22));

12 “(B) the activity involves a vessel in which
13 a national of the United States was on board;
14 or

15 “(C) the activity involves a vessel of the
16 United States (as that term is defined under
17 section 2 of the Maritime Drug Law Enforce-
18 ment Act (46 U.S.C. App. 1903).

19 “(b) SCOPE.—Nothing in this chapter shall apply to
20 otherwise lawful activities carried out by or at the direc-
21 tion of the United States Government.

22 **“§ 2291. Destruction of vessel or maritime facility**

23 “(a) OFFENSE.—Whoever knowingly—

24 “(1) sets fire to, damages, destroys, disables, or
25 wrecks any vessel;

1 “(2) places or causes to be placed a destructive
2 device, as defined in section 921(a)(4), destructive
3 substance, as defined in section 31(a)(3), or an ex-
4 plosive, as defined in section 844(j) in, upon, or
5 near, or otherwise makes or causes to be made un-
6 workable or unusable or hazardous to work or use,
7 any vessel, or any part or other materials used or in-
8 tended to be used in connection with the operation
9 of a vessel;

10 “(3) sets fire to, damages, destroys, or disables
11 or places a destructive device or substance in, upon,
12 or near, any maritime facility, including any aid to
13 navigation, lock, canal, or vessel traffic service facil-
14 ity or equipment;

15 “(4) interferes by force or violence with the op-
16 eration of any maritime facility, including any aid to
17 navigation, lock, canal, or vessel traffic service facil-
18 ity or equipment, if such action is likely to endanger
19 the safety of any vessel in navigation;

20 “(5) sets fire to, damages, destroys, or disables
21 or places a destructive device or substance in, upon,
22 or near, any appliance, structure, property, machine,
23 or apparatus, or any facility or other material used,
24 or intended to be used, in connection with the oper-
25 ation, maintenance, loading, unloading, or storage of

1 any vessel or any passenger or cargo carried or in-
2 tended to be carried on any vessel;

3 “(6) performs an act of violence against or in-
4 capacitates any individual on any vessel, if such act
5 of violence or incapacitation is likely to endanger the
6 safety of the vessel or those on board;

7 “(7) performs an act of violence against a per-
8 son that causes or is likely to cause serious bodily
9 injury, as defined in section 1365(h)(3), in, upon, or
10 near, any appliance, structure, property, machine, or
11 apparatus, or any facility or other material used, or
12 intended to be used, in connection with the oper-
13 ation, maintenance, loading, unloading, or storage of
14 any vessel or any passenger or cargo carried or in-
15 tended to be carried on any vessel;

16 “(8) communicates information, knowing the
17 information to be false and under circumstances in
18 which such information may reasonably be believed,
19 thereby endangering the safety of any vessel in navi-
20 gation; or

21 “(9) attempts or conspires to do anything pro-
22 hibited under paragraphs (1) through (8),

23 shall be fined under this title or imprisoned not more than
24 20 years, or both.

1 “(b) LIMITATION.—Subsection (a) shall not apply to
2 any person that is engaging in otherwise lawful activity,
3 such as normal repair and salvage activities, and the
4 transportation of hazardous materials regulated and al-
5 lowed to be transported under chapter 51 of title 49.

6 “(c) PENALTY.—Whoever is fined or imprisoned
7 under subsection (a) as a result of an act involving a vessel
8 that, at the time of the violation, carried high-level radio-
9 active waste (as that term is defined in section 2(12) of
10 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
11 10101(12)) or spent nuclear fuel (as that term is defined
12 in section 2(23) of the Nuclear Waste Policy Act of 1982
13 (42 U.S.C. 10101(23)), shall be fined under this title, im-
14 prisoned for a term up to life, or both.

15 “(d) PENALTY WHEN DEATH RESULTS.—Whoever is
16 convicted of any crime prohibited by subsection (a) and
17 intended to cause death by the prohibited conduct, if the
18 conduct resulted in the death of any person, shall be sub-
19 ject also to the death penalty or to a term of imprisonment
20 for a period up to life.

21 “(e) THREATS.—Whoever knowingly and inten-
22 tionally imparts or conveys any threat to do an act which
23 would violate this chapter, with an apparent determination
24 and will to carry the threat into execution, shall be fined
25 under this title or imprisoned not more than 5 years, or

1 both, and is liable for all costs incurred as a result of such
2 threat.

3 **“§ 2292. Imparting or conveying false information**

4 “(a) IN GENERAL.—Whoever imparts or conveys or
5 causes to be imparted or conveyed false information,
6 knowing the information to be false, concerning an at-
7 tempt or alleged attempt being made or to be made, to
8 do any act that would be a crime prohibited by this chap-
9 ter or by chapter 111 of this title, shall be subject to a
10 civil penalty of not more than \$5,000, which shall be re-
11 coverable in a civil action brought in the name of the
12 United States.

13 “(b) MALICIOUS CONDUCT.—Whoever knowingly, in-
14 tentiously, maliciously, or with reckless disregard for the
15 safety of human life, imparts or conveys or causes to be
16 imparted or conveyed false information, knowing the infor-
17 mation to be false, concerning an attempt or alleged at-
18 tempt to do any act which would be a crime prohibited
19 by this chapter or by chapter 111 of this title, shall be
20 fined under this title or imprisoned not more than 5 years.

21 “(c) JURISDICTION.—

22 “(1) IN GENERAL.—Except as provided under
23 paragraph (2), section 2290(a) shall not apply to
24 any offense under this section.

1 “(2) JURISDICTION.—Jurisdiction over an of-
 2 fense under this section shall be determined in ac-
 3 cordance with the provisions applicable to the crime
 4 prohibited by this chapter, or by chapter 111 of this
 5 title, to which the imparted or conveyed false infor-
 6 mation relates, as applicable.

7 **“§ 2293. Bar to prosecution**

8 “(a) IN GENERAL.—It is a bar to prosecution under
 9 this chapter if—

10 “(1) the conduct in question occurred within
 11 the United States in relation to a labor dispute, and
 12 such conduct is prohibited as a felony under the law
 13 of the State in which it was committed; or

14 “(2) such conduct is prohibited as a mis-
 15 demeanor, and not as a felony, under the law of the
 16 State in which it was committed.

17 “(b) DEFINITIONS.—In this section:

18 “(1) LABOR DISPUTE.—The term ‘labor dis-
 19 pute’ has the same meaning given that term in sec-
 20 tion 13(c) of the Act to amend the Judicial Code
 21 and to define and limit the jurisdiction of courts sit-
 22 ting in equity, and for other purposes (29 U.S.C.
 23 113(c), commonly known as the Norris-LaGuardia
 24 Act).

“111A. Destruction of, or interference with, vessels or maritime facilities 2290”.

11 (a) THEFT OF INTERSTATE OR FOREIGN SHIP-
12 MENTS.—Section 659 of title 18, United States Code, is
13 amended—

(C) by inserting “, or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,” after “air navigation facility”;

•S 2118 IS

1 “or both” the second place it appears and inserting
 2 “be fined under this title or imprisoned not more
 3 than 10 years, or both, but if the amount or value
 4 of such money, baggage, goods, or chattels is less
 5 than \$1,000, shall be fined under this title or im-
 6 prisoned for not more than 3 years, or both”; and

7 (3) by inserting after the first sentence in the
 8 eighth undesignated paragraph the following: “For
 9 purposes of this section, goods and chattel shall be
 10 construed to be moving as an interstate or foreign
 11 shipment at all points between the point of origin
 12 and the final destination (as evidenced by the waybill
 13 or other shipping document of the shipment), re-
 14 gardless of any temporary stop while awaiting trans-
 15 shipment or otherwise.”.

16 (b) STOLEN VESSELS.—

17 (1) IN GENERAL.—Section 2311 of title 18,
 18 United States Code, is amended by adding at the
 19 end the following, as a new undesignated paragraph:
 20 “‘Vessel’ means any watercraft or other contrivance
 21 used or designed for transportation or navigation on,
 22 under, or immediately above, water.”.

23 (2) TRANSPORTATION AND SALE OF STOLEN
 24 VESSELS.—

1 (A) TRANSPORTATION.—Section 2312 of
2 title 18, United States Code, is amended by
3 striking “motor vehicle or aircraft” and insert-
4 ing “motor vehicle, vessel, or aircraft”.

5 (B) SALE.—Section 2313(a) of title 18,
6 United States Code, is amended by striking
7 “motor vehicle or aircraft” and inserting
8 “motor vehicle, vessel, or aircraft”.

9 (c) REVIEW OF SENTENCING GUIDELINES.—Pursu-
10 ant to section 994 of title 28, United States Code, the
11 United States Sentencing Commission shall review the
12 Federal Sentencing Guidelines to determine whether sen-
13 tencing enhancement is appropriate for any offense under
14 section 659 or 2311 of title 18, United States Code, as
15 amended by this title.

16 (d) ANNUAL REPORT OF LAW ENFORCEMENT AC-
17 TIVITIES.—The Attorney General shall annually submit to
18 Congress a report, which shall include an evaluation of
19 law enforcement activities relating to the investigation and
20 prosecution of offenses under section 659 of title 18,
21 United States Code, as amended by this title.

22 (e) REPORTING OF CARGO THEFT.—The Attorney
23 General shall take the steps necessary to ensure that re-
24 ports of cargo theft collected by Federal, State, and local
25 officials are reflected as a separate category in the Uni-

1 form Crime Reporting System, or any successor system,
2 by no later than December 31, 2006.

3 **SEC. 308. STOWAWAYS ON VESSELS OR AIRCRAFT.**

4 Section 2199 of title 18, United States Code, is
5 amended by striking “Shall be fined under this title or
6 imprisoned not more than one year, or both.” and insert-
7 ing the following:

8 “(1) shall be fined under this title, imprisoned
9 not more than 5 years, or both;

10 “(2) if the person commits an act proscribed by
11 this section, with the intent to commit serious bodily
12 injury, and serious bodily injury occurs (as defined
13 under section 1365, including any conduct that, if
14 the conduct occurred in the special maritime and
15 territorial jurisdiction of the United States, would
16 violate section 2241 or 2242) to any person other
17 than a participant as a result of a violation of this
18 section, shall be fined under this title or imprisoned
19 not more than 20 years, or both; and

20 “(3) if an individual commits an act proscribed
21 by this section, with the intent to cause death, and
22 if the death of any person other than a participant
23 occurs as a result of a violation of this section, shall
24 be fined under this title, imprisoned for any number
25 of years or for life, or both.”.

1 **SEC. 309. BRIBERY AFFECTING PORT SECURITY.**

2 (a) IN GENERAL.—Chapter 11 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 226. Bribery affecting port security**

6 “(a) IN GENERAL.—Whoever knowingly—

7 “(1) directly or indirectly, corruptly gives, of-
8 fers, or promises anything of value to any public or
9 private person, with intent to commit international
10 terrorism or domestic terrorism (as those terms are
11 defined under section 2331), to—

12 “(A) influence any action or any person to
13 commit or aid in committing, or collude in, or
14 allow, any fraud, or make opportunity for the
15 commission of any fraud affecting any secure or
16 restricted area or seaport; or

17 “(B) induce any official or person to do or
18 omit to do any act in violation of the lawful
19 duty of such official or person that affects any
20 secure or restricted area or seaport; or

21 “(2) directly or indirectly, corruptly demands,
22 seeks, receives, accepts, or agrees to receive or ac-
23 cept anything of value personally or for any other
24 person or entity in return for—

1 “(A) being influenced in the performance
2 of any official act affecting any secure or re-
3 stricted area or seaport; and

4 “(B) knowing that such influence will be
5 used to commit, or plan to commit, inter-
6 national or domestic terrorism,

7 shall be fined under this title or imprisoned not more than
8 15 years, or both.

9 “(b) DEFINITION.—In this section, the term ‘secure
10 or restricted area’ means an area of a vessel or facility
11 designated as secure in an approved security plan, as re-
12 quired under section 70103 of title 46, United States
13 Code, and the rules and regulations promulgated under
14 that section.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
16 tions for chapter 11 of title 18, United States Code, is
17 amended by adding at the end the following:

“226. Bribery affecting port security.”.

18 **SEC. 310. PENALTIES FOR SMUGGLING GOODS INTO THE**
19 **UNITED STATES.**

20 The third undesignated paragraph of section 545 of
21 title 18, United States Code, is amended by striking “5
22 years” and inserting “20 years”.

1 **SEC. 311. SMUGGLING GOODS FROM THE UNITED STATES.**

2 (a) IN GENERAL.—Chapter 27 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 554. Smuggling goods from the United States**

6 “(a) IN GENERAL.—Whoever fraudulently or know-
7 ingly exports or sends from the United States, or attempts
8 to export or send from the United States, any merchan-
9 dise, article, or object contrary to any law or regulation
10 of the United States, or receives, conceals, buys, sells, or
11 in any manner facilitates the transportation, concealment,
12 or sale of such merchandise, article or object, prior to ex-
13 portation, knowing the same to be intended for expor-
14 tation contrary to any law or regulation of the United
15 States, shall be fined under this title, imprisoned not more
16 than 10 years, or both.

17 “(b) DEFINITION.—In this section, the term ‘United
18 States’ has the meaning given that term in section 545.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
20 ysis for chapter 27 of title 18, United States Code, is
21 amended by adding at the end the following:

“554. Smuggling goods from the United States.”.

22 (c) SPECIFIED UNLAWFUL ACTIVITY.—Section
23 1956(c)(7)(D) of title 18, United States Code, is amended
24 by inserting “section 554 (relating to smuggling goods

1 from the United States),” before “section 641 (relating
2 to public money, property, or records),”.

3 (d) TARIFF ACT OF 1990.—Section 596 of the Tariff
4 Act of 1930 (19 U.S.C. 1595a) is amended by adding at
5 the end the following:

6 “(d) Merchandise exported or sent from the United
7 States or attempted to be exported or sent from the
8 United States contrary to law, or the proceeds or value
9 thereof, and property used to facilitate the exporting or
10 sending of such merchandise, the attempted exporting or
11 sending of such merchandise, or the receipt, purchase,
12 transportation, concealment, or sale of such merchandise
13 prior to exportation shall be seized and forfeited to the
14 United States.”.

15 (e) REMOVING GOODS FROM CUSTOMS CUSTODY.—
16 Section 549 of title 18, United States Code, is amended
17 in the 5th paragraph by striking “two years” and insert-
18 ing “10 years”.

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